

Before the  
Federal Communications Commission  
Washington, D.C. 20554

RECEIPT

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AUG - 9 2012

Federal Communications Commission  
Office of the Secretary

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In the Matter of )  
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News Corporation )  
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Petition for Declaratory Ruling Under )  
Section 310(b)(4) of the Communications )  
Act of 1934 )  
\_\_\_\_\_ )

MB Docket No. \_\_\_\_

**REQUEST FOR DECLARATORY RULING**

News Corporation ("News Corp") hereby respectfully requests that the Commission issue a declaratory ruling in connection with Section 310(b)(4) of the Communications Act,<sup>1</sup> confirming that it would be in the public interest to permit all of News Corp's public shareholders to fully participate in a *single, one-time-only* vote regarding an amendment to News Corp's Restated Certificate of Incorporation (the "Charter Amendment") to facilitate the proposed separation of certain of the company's non-broadcast businesses.

**I. BACKGROUND AND INTRODUCTION**

As News Corp announced on June 28, 2012, the company is considering a separation transaction pursuant to which certain of its publishing and other businesses would be placed in a distinct, stand-alone publicly-traded company (the "Separation Transaction"). Notably, this transaction would not affect any of News Corp's broadcast license-holding subsidiaries, nor would it require any regulatory approvals from the Commission.<sup>2</sup> Specifically, in an effort to enhance its strategic alignment and increase operational flexibility, the company is exploring a

<sup>1</sup> 47 U.S.C. § 310(b)(4) (the "Act").

<sup>2</sup> The proposed transaction does not require Commission approval because the separation of the non-broadcast businesses would not result in the transfer of control or assignment of any FCC licenses. Each current shareholder of News Corp simply would receive an equivalent share in the new company.

transaction that would separate various of the company's business units out into a stand-alone publicly-traded company. News Corp believes that a separation of certain of its businesses into a stand-alone corporation, which would have its own identity and strategy, would enhance overall shareholder value and allow both the new enterprise and the preexisting company (which will continue to be the parent of various broadcast licensees) to focus on and pursue industry-specific opportunities that would maximize their long-term potential.<sup>3</sup>

As the Commission is aware, however, in April 2012, News Corp suspended 50% of the voting rights of the non-U.S. holders of the company's Class B voting stock in order to remain in compliance with the Act.<sup>4</sup> As a result, absent Commission action, certain company shareholders would be precluded from fully participating in the consideration of the Charter Amendment to facilitate the Separation Transaction. As the parent of broadcast license-holding subsidiaries, News Corp is bound by the strictures of the Act, and cannot of its own accord, even for positive public interest purposes, lift the voting suspension without risking a violation of Section 310(b)(4). The instant request is not submitted to benefit News Corp itself, but rather with the hope that the Commission will permit the broadest possible participation by the company's shareholders in the consideration of the Charter Amendment to facilitate the Separation Transaction.

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<sup>3</sup> See News Corporation Announces Intent to Pursue Separation of Businesses to Enhance Strategic Alignment and Increase Operational Flexibility, Press Release (June 28, 2012), a copy of which is included herewith as Attachment A. The Separation Transaction would enable both companies to benefit from greater financial and operational flexibility while better positioning each company to compete in the modern media environment. With more focus devoted to each business' financial and operational structure, public shareholders would be better able to evaluate the inherent value of both portfolios of assets and invest in each company accordingly.

<sup>4</sup> See News Corporation, SEC Form 8-K (April 18, 2012), available at <http://investor.newscorp.com/secfiling.cfm?filingID=1193125-12-167439>. News Corp has two classes of stock. Class A Common Stock provides an equity interest in News Corp but limits voting rights to specific, major events outlined in News Corp's Certificate of Incorporation. Class B Common Stock provides both an equity interest and a shareholder vote.

News Corp therefore requests a limited ruling that would permit all of the company's shareholders, including those who are non-U.S. citizens, to exercise 100% of their voting rights *solely* for the purpose of a *single* shareholder vote to consider the Charter Amendment in connection with the Separation Transaction. To be clear, if granted, this request would result in the voting suspension being lifted on a one-time-only basis. A declaratory ruling to permit all of the company's shareholders to exercise their full voting rights in connection with the Separation Transaction is warranted in this case, because the stockholders would be voting on a matter that would facilitate the transformation of the company.<sup>5</sup> Moreover, given the extremely limited nature of this request, a grant would not implicate any of the reasons underlying the Act's limitations on foreign ownership.

If the Board of Directors of News Corp determines to move forward with the Separation Transaction, News Corp would expect to conduct a shareholder vote to consider the Charter Amendment in the Spring of 2013; therefore, News Corp respectfully asks that the Commission grant this petition by January 31, 2013.

## **II. A LIMITED RULING TO PERMIT ALL SHAREHOLDERS TO VOTE ON THE SEPARATION TRANSACTION WOULD SERVE THE PUBLIC INTEREST**

A declaratory ruling allowing all shareholders to exercise 100% of their voting rights with regard to the Charter Amendment to facilitate the Separation Transaction is strongly in the public interest. Section 310(b)(4) provides the FCC with discretion to allow indirect foreign voting and ownership in excess of the 25% statutory threshold in cases where the Commission concludes that it would advance the public interest. By its plain terms, the statute limits foreign equity ownership of, or voting rights in, the parent of a corporation that holds an FCC license

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<sup>5</sup> See, e.g., *Equity Group Holdings v. DMG, Inc.*, 576 F. Supp. 1197, 1206 (S.D. Fla. 1983) (holding that "shareholders in a public corporation should be given an opportunity to voice their opinion in a vote on matters of fundamental importance to them").

only where the Commission affirmatively finds that “the public interest will be served by the refusal or revocation of such license.”<sup>6</sup> In the context of a vote to advance de-consolidation unrelated to any broadcast activity, and in light of the corporate law principles recognizing the importance of participation by shareholders in governing corporate affairs, News Corp submits that there is sound basis for the Commission to exercise the discretion given it by Congress in Section 310(b)(4) and grant this limited request. In particular, grant of this request would enable News Corp to act in a manner most beneficial to all of its public shareholders. This request is not submitted to benefit News Corp itself, but rather to make it possible to obtain the broadest possible input from the company’s shareholders in consideration of the Separation Transaction.<sup>7</sup>

That being said, News Corp wishes to make clear that if the Board of Directors of News Corp approves the Separation Transaction, it will call a shareholders meeting to consider the Charter Amendment regardless of the outcome of this request. As a result, if the Commission denies this request or fails to act on it, News Corp still would intend to submit the proposed Charter Amendment to a vote of its shareholders. In this instance, the vote necessarily would proceed with non-U.S. citizens remaining subject to a 50% voting rights suspension (or such other suspension level as News Corp’s Board determines from time to time is necessary to maintain compliance with the Act). In short, the company simply is asking the Commission to permit the full participation of all shareholders in a vote relating to a matter of transformative importance.

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<sup>6</sup> 47 U.S.C. § 310(b)(4). *See also In re Fox Television Stations*, 11 FCC Rcd 5714, 5721 (1995) (FCC explaining that a licensee has a “duty to furnish us with information concerning its alien ownership in order to enable us to determine whether we need to exercise our public interest discretion”).

<sup>7</sup>To be clear, the Charter Amendment would be limited to consideration of changes needed to facilitate the Separation Transaction.

The one-time-only, limited-purpose ruling requested here does not implicate any of the reasons for the statutory ownership limitations. In the broadcast context, the Act's restriction on foreign ownership "was intended to safeguard domestic station licensees from undue foreign influence and control."<sup>8</sup> The restriction ensures "the American character of licensees" and reflects "the point at which foreign ownership and voting may conflict with the national interest."<sup>9</sup> A limited ruling here merely would permit all shareholders to exercise fully their voting rights on the Charter Amendment to facilitate the separation of certain non-broadcast businesses. There would be no impact whatsoever on the operation or oversight of any broadcast license-holding subsidiary of News Corp. For all matters other than this vote, News Corp's voting rights suspension would remain fully in effect for as long as it remains necessary to ensure compliance with the Act.

The Commission frequently relaxes similar restrictions in other contexts to permit a vote on the fundamental corporate structure of a company. For example, the situation here is analogous to the FCC rule that permits ordinarily non-voting and insulated interest holders of broadcast licensees to vote on certain significant corporate actions without attribution under the multiple ownership rules.<sup>10</sup> Under those rules, a limited partner may be insulated from material, day-to-day operation of an entity while still retaining ownership and the ability to vote on significant transactions.<sup>11</sup> Here, News Corp is proposing only that all shareholders, including

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<sup>8</sup> *Fox Television Stations*, 11 FCC Rcd at 5722 (citing S. Rep. No. 73d Cong., 2d Sess. at 7 (1934)).

<sup>9</sup> *Id.* (citing *Request for Declaratory Ruling Concerning the Citizenship Requirements of Sections 310(b)(3) and (4) of the Communications Act of 1934, as Amended*, 103 F.C.C.2d 511, 517 (1985)).

<sup>10</sup> See, e.g., 47 C.F.R. § 73.3555 note 2(f).

<sup>11</sup> See 47 C.F.R. § 73.3555 (citing *Corporate Ownership Reporting and Disclosure by Broadcast Licensees*, 1985 FCC LEXIS 3081 (1985), modified on reconsideration *Corporate Ownership Reporting and Disclosure by Broadcast Licensees*, 1 FCC Rcd 802 (1986)). The Commission has also applied the limited partnership insulation rules to limited liability companies. See *Implementation of the Cable Television Consumer Protection and Competition Act of 1992*, 14 FCC Rcd 19014, 19043, ¶ 71 (1999).

non-U.S. citizens, be allowed to exercise their full voting rights for a one-time, special vote to facilitate the proposed Separation Transaction. Just as the public interest supports allowing “insulated” entities to vote on a major transaction without being deemed to hold cognizable interests because they remain materially uninvolved in media activities, so too does the public interest support allowing all of News Corp’s shareholders to exercise their full voting rights on this singular vote.

Moreover, the Commission has a long history of utilizing special procedures to permit broad shareholder participation in connection with major corporate transactions. For instance, in *Committee for Full Value of Storer Communications*, the Commission considered whether a shareholder-initiated proxy contest to replace the Board of Directors constituted a “substantial change” in control, which would have required compliance with certain complex transfer of control application procedures.<sup>12</sup> In determining which application procedure was appropriate, the Commission said that it had “no desire to raise unnecessary hurdles impeding the exercise of shareholder rights under corporate law.”<sup>13</sup> The Commission found that enforcing a more complex procedure “would place a cloud” over the proceedings and potentially influence shareholders to vote a certain way, violating the Commission’s goal of treating the parties “evenhandedly.”<sup>14</sup> The Commission concluded that if it could “remove that cloud, the shareholders [would] be able to cast their votes solely on the merits of the proposals.”<sup>15</sup> The Commission similarly should grant the limited relief that News Corp seeks here, which would allow all of the company’s shareholders to exercise their full rights on this one-time-only vote.

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<sup>12</sup> *Committee for Full Value of Storer Communications*, 101 F.C.C.2d 434 (1985) *aff’d sub nom Storer Communications v. FCC*, 763 F.2d 436 (D.C. Cir. 1985).

<sup>13</sup> *Id.* at 446, ¶ 32.

<sup>14</sup> *Id.* at 447, ¶ 32.

<sup>15</sup> *Id.*

#### IV. CONCLUSION

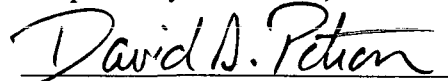
For all of these reasons, a Commission declaration that it would be permissible for all News Corp shareholders to exercise their full voting rights in considering the Charter Amendment to facilitate the Separation Transaction would serve the public interest. Because the company needs to plan for an orderly shareholder vote that will take place in the Spring of 2013, News Corp respectfully requests that the Commission act on this request for a declaratory ruling no later than January 31, 2013.

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Dated: August 9, 2012

# ATTACHMENT A





## Press Releases

# News Corporation Announces Intent to Pursue Separation of Businesses to Enhance Strategic Alignment and Increase Operational Flexibility

### *Separation Would Create Two Category-Leading Public Companies*

NEW YORK, NY – June 28, 2012 – News Corporation (NASDAQ: NWS, NWSA; ASX: NWS, NWSLV) today announced that it intends to pursue the separation of its publishing and media and entertainment businesses into two distinct publicly traded companies. Upon closing of such a transaction, shareholders would hold interests in a world-class publishing company, consisting of the largest collection of best-in-class publishing assets and a new digital education group, and an unmatched global media and entertainment company, each of which would benefit from enhanced strategic alignment and increased operational flexibility with respect to an unparalleled portfolio of assets, brands and franchises.

News Corporation's Board authorized management to explore this separation after a Board meeting yesterday.

The proposed transaction would create global category leaders in both publishing and entertainment: a publishing company, which would be comprised of News Corporation's newspapers and information businesses in the U.S., U.K., and Australia, the Company's leading book publishing brands, its integrated marketing services company, its digital education group, as well as its other assets in Australia; and a global media and entertainment company, which would encompass News Corporation's broadcast and worldwide cable networks, leading film and television production studios, television stations and highly successful pay-TV businesses in Europe and India.

"There is much work to be done, but our Board and I believe that this new corporate structure we are pursuing would accelerate News Corporation's businesses to grow to new heights, and enable each company and its divisions to recognize their full potential – and unlock even greater long-term shareholder value," said Rupert Murdoch, Chairman and CEO of News Corporation. "News

Corporation's 60-year heritage of developing world-class media brands has resulted in a large and unparalleled portfolio of diversified assets. We recognize that over the years, News Corporation's broad collection of assets have become increasingly complex. We determined that creating this new structure would simplify operations and greater align strategic priorities, enabling each company to better deliver on our commitments to consumers across the globe. I am 100 percent committed to the future of both the publishing and media and entertainment businesses and, if the Board ultimately approves a separation, I would serve as Chairman of both companies."

News Corporation believes that a separation of the businesses into distinct public corporations with their own identities and strategies would enhance overall shareholder value and allow each company to:

- Focus on and pursue distinct strategic priorities and industry-specific opportunities that would maximize their long-term potential.
- Benefit from greater financial and operational flexibility and better position each company to compete.
- Respond and react more quickly to rapidly-evolving technology and global market opportunities.
- Tailor its capital structure, and allocate and deploy resources in a manner consistent with its strategic objectives that best enhances value for its respective shareholder group.

With more focus devoted to each business' financial and operational structure, investors would be able to more clearly evaluate the inherent value of both portfolios of assets and invest in each company accordingly.

The new global media and entertainment company that would be created through the proposed transaction would consist of News Corporation's highly-profitable cable and television assets, filmed entertainment, and direct satellite broadcasting businesses, including Fox Broadcasting, Twentieth Century Fox Film, Twentieth Century Fox Television, Fox Sports, Fox International Channels, Fox News Channel, Fox Business Network, FX, Star, the National Geographic Channels, Shine Group, Fox Television Stations, BSkyB, Sky Italia and Sky Deutschland, among others. As a pure-play content producer and distributor, the Company would build on its deep heritage in developing incredibly strong, premium content for distribution on screens of all sizes by leveraging its leading content across its entertainment and cable news verticals, as well as its unparalleled collection of regional sports networks, and the industry's leading movie and TV production and distribution company. In addition, the entertainment company would benefit from its rapidly growing, high-margin cable network and pay-TV assets, and the distribution capabilities and opportunities associated with its unrivaled global footprint with significant scale across North and South America, Europe and Asia.

The new global publishing company that would be created through the proposed transaction would consist of News Corporation's current publishing businesses, as well as its book publishing, education and integrated marketing services divisions. The new publishing company would create a scaled publishing platform that would be one of the best capitalized in the industry. The publishing company would have the opportunity to leverage its trusted brands for

innovation and value creation across all traditional and digital platforms. The publishing company would incorporate some of the world's most successful print, digital and information services brands including Dow Jones, The Wall Street Journal, Dow Jones Newswires, HarperCollins, The New York Post, and The Daily, as well as offer the rich diversity of assets in Australia, including leading brands such as The Australian, The Herald Sun, The Daily Telegraph and The Courier Mail. In addition, the Company would include The Times, The Sun, The Sunday Times, as well as News Corporation's integrated marketing services group and its ground-breaking digital education group, including Wireless Generation. With a balanced portfolio of stable and growing news publishing brands and other assets, shareholders would benefit from strong and consistent free cash flow generated by these businesses, over multiple platforms.

Upon closing of the proposed transaction, News Corporation's shareholders would receive one share of common stock in the new company for each same class News Corporation share currently held. Following the separation, each company would maintain two classes of common stock: Class A Common and Class B Common Voting Shares.

Upon closing of the proposed transaction, Rupert Murdoch would serve as Chairman of both companies and CEO of the media and entertainment company. Chase Carey would serve as President and COO of the media and entertainment company. Over the next several months, the Company will assemble management teams and Boards of Directors for both businesses.

The separation is expected to be completed in approximately 12 months. Management is developing detailed plans for the Board's further consideration and final approval. To execute the transaction requires further work on structure, management, governance, and other significant matters. After receiving final approval of the Board of Directors, News Corporation will convene a special shareholder meeting to consider the transaction. This meeting is not expected to take place until the first half of calendar 2013. During the closing process, News Corporation will remain focused on delivering the best possible results for the benefit of its consumers, customers and shareholders.

In addition to shareholder approval, the completion of the separation will also be subject to receipt of regulatory approvals, opinions from tax counsel and favorable rulings from certain tax jurisdictions regarding the tax-free nature of the transaction to the Company and to its shareholders, further due diligence as appropriate, and the filing and effectiveness of appropriate filings with the U.S. Securities and Exchange Commission. The Company will provide interim updates as appropriate. There can be no assurances given that the separation of the Company's businesses as described in this announcement will occur.

**Analyst Teleconference details:**

News Corporation's senior executives will host a call to discuss the announcement and answer questions from the analyst community. Reporters are invited to join the call on a listen-only basis.

Thursday, June 28, 2012  
8:30 a.m. (EDT)

United States: (800) 230-1951  
International: (612) 332-0418  
Passcode: NEWS

An audio replay of the call will be available until July 13, 2013 from the following dial in numbers:

United States: (800) 475-6701  
International: (320) 365-3844  
Access Code: 253250

#### About News Corporation

News Corporation (NASDAQ: NWS, NWSA; ASX: NWS, NWSLV) had total assets as of March 31, 2012 of approximately US\$61 billion and total annual revenues of approximately US\$34 billion. News Corporation is a diversified global media company with operations in six industry segments: cable network programming; filmed entertainment; television; direct broadcast satellite television; publishing; and other. The activities of News Corporation are conducted principally in the United States, Continental Europe, the United Kingdom, Australia, Asia and Latin America.

#### Cautionary Statement Concerning Forward-Looking Statements

This document contains certain "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. These statements are based on management's views and assumptions regarding future events and business performance, including its expectations with respect to the proposed transaction. Actual results may differ materially from these expectations due to changes in global economic, business, competitive market and regulatory factors. In addition, actual plans, actions and results relating to the proposed transaction may differ materially from current expectations as a result of certain risks and uncertainties, including but not limited to: unanticipated developments that delay or negatively impact the proposed transaction; changes in market conditions; disruption to business operations as a result of the proposed transaction; the inability to retain key personnel; and the other risks and uncertainties described from time to time in our filings with the Securities and Exchange Commission. More detailed information about these and other factors that could affect future results is contained in our filings with the Securities and Exchange Commission. There can be no assurance that the proposed transaction will be completed as anticipated or at all. The "forward-looking statements" included in this document are made only as of the date of this document and we do not have any obligation to publicly update any "forward-looking statements" to reflect subsequent events or circumstances, except as required by law.

#### Participants in the Solicitation

The Company and its executive officers and directors may be deemed to be participants in the solicitation of proxies from the stockholders of News Corporation in connection with the proposed transaction, if pursued. Information about the executive officers and directors of News Corporation and their ownership of News Corporation common stock is set forth in the proxy statement for News Corporation's 2011 Annual Meeting of Shareholders, which was filed with the Securities and Exchange Commission on September 2, 2011. If the Company determines to

pursue the proposed transaction, investors and security holders may obtain additional information regarding the direct and indirect interests of the Company and its executive officers and directors in the proposed transaction by reading the Schedule 14A and the preliminary proxy statement regarding the proposed transaction when it becomes available.

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